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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,166	04/04/2001	Yoshihisa Gonno	7217/64310	4029

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EXAMINER

CHANG, JUNGWON

ART UNIT PAPER NUMBER

2154

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/826,166	Applicant(s) GONNO ET AL.	
	Examiner Jungwon Chang	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Action is response to RCE on 3/31/06. Claims 4, 5, and 9 have been canceled. Claims 1-3, 6-8 and 10-13 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aggarwal et al. (US 6,477,180), hereinafter Aggarwal, in view of Schneider (2001/0037402).

4. As to claims 1 and 12, Aggarwal discloses the invention as claimed, including a managing apparatus for managing data necessary for delivering a digital content (col. 2, lines 10-62, "managing channels of varying bandwidths and a plurality of objects which are to be delivered via these channels"), comprising:

reserving means for reserving a delivery resource for the content (col. 1, line 56 – col. 2, line 4, "user interfaces having a capability for selecting digital objects to be transmitted");

assigning means for adjusting a bandwidth and a transmission time necessary

Art Unit: 2154

for delivering the content and for assigning the bandwidth and the transmission time to the reserved delivery resource (col. 2, lines 10-16 and 46-62, "managing channels of varying bandwidths"; col. 2, lines 25-45 and 47-62, "dynamically deciding which delivery times are profitable and offering a customer a number of delivery time options"; col. 9, lines 45-65, "alternate delivery time");

storing means for storing the bandwidth and the transmission time to the reserved delivery resource (scheduler 12, fig. 1; col. 2, lines 46-62; col. 9, lines 35-60); and

transmitting means for transmitting an information of the content and the reserved delivery resource information that includes the bandwidth and the transmission time (transmission source, 20, fig. 1; col. 4, line 57 – col. 5, line 21, "transmissions from transmission source 20 are received by receivers or user interfaces 22"),

wherein a delivery resource is assigned corresponding to a convenience of a content provider (col. 1, lines 9-12, "optimizing transmission resources to provide efficient and profitable transmission of digital objects"; col. 1, lines 27-42, "optimizes the revenue and ultimately the profits of e-commerce merchant's delivery service"; col. 3, lines 30-42); and

wherein the transmission time includes information indicative of a start time and an end time for delivering the content (figs. 2A, 4; col. 5, line 47 – col. 6, line 10, "subtask 1, which transmits the digital object from beginning to end for this customer"; col. 6, lines 53-67, "transmission start time of a subtask are related to the time needed to complete its transmission").

Art Unit: 2154

5. Aggarwal discloses delivery method for delivery the content (col. 5, lines 10-13, "a network which may include a television network, a telephone network, a satellite television network, a cable network and the like"). However, Aggarwal does not specifically disclose selecting for a method from among two delivery methods for delivering the content. Schneider discloses selecting for a method from among two delivery methods for delivering the content (305, fig. 3; page 1, 0008, "different transmission methods"...to choose and request a transmission method"; page 2, 0016, "optimal transmission method can be chosen"; page 3, 0025, "chooses a transmission method 305"). It would have been obvious to one of ordinary skill in the art of the invention was made to combine the teachings of Aggarwal and Schneider because Schneider's selecting a transmission method would allow the user to interact with the performance evaluation information to choose the transmission method (Schneider, page 2, 0019).

6. Claims 2, 3, 6-8, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusaba et al. (US 6,510,556), hereinafter Kusaba, in view of Kobayashi et al. (US 6,473,096), hereinafter Kobayashi, Schneider (2001/0037402)

7. As to claims 2 and 13, Kusaba discloses a managing apparatus for managing data necessary for delivering a digital content (col. 1, lines 6-14), comprising:

content list displaying means for displaying a list of contents that can be delivered (personal computer 123, figs. 2 & 7; fig. 4B; col. 3, lines 48-65; col. 4, lines 7-

Art Unit: 2154

56);

reservation state displaying means for displaying a reservation state of a delivery resource (personal computer 123, figs. 2 & 7; fig. 4C; col. 3, lines 48-65; title is displayed in each line of the time table 421, thus the view can know the present reservation situation; col. 4, lines 7-56);

content selecting means for selecting a content from said displayed list of contents (personal computer 123, figs. 2 & 7; fig. 4C; col. 3, lines 48-65; movie is selected by a mouse pointer 401; col. 4, lines 7-56; viewer clicks the reserve button 424 and the request can be accepted; col. 5, lines 23-47);

operating means for assigning a delivery resource for delivering the selected content as an area on the reservation state displaying means from the list of contents to the reservation state of a delivery resource (scheduler 105, figs. 2 & 7; when the view clicks the reserve button 424 and the request can be accepted, the client software transmits the inputted reservation contents to the scheduler 105...The title of the video image to be distributed, the designation of the channel, and the start time of the distribution are included in the reservation contents; col. 5, lines 23-47); and

assignment means for calculating a transmission time necessary for delivery the selected content by shaping the area (col. 4, lines 23-32; col. 5, lines 23-30; figs. 4C-F); and

wherein a delivery resource is assigned corresponding to a convenience of a content provider (col. 4, line 57 – col. 5, line 22; figs. 4C & 4D),

wherein transmission time includes information indicative of a start time and an

end time for delivering the content (fig. 2; 421, fig. 4D, "time table"; .

wherein the assignment means includes means for enabling the transmission time to be adjusted (423, figs. 4C, 4F; col. 5, line 57 – col. 5, line 21, "inputs a time at which the start of the distribution is desired into a start time input column 423"; col. 5, lines 41-58, "updates the contents of the time table 421"; col. 1, lines 46-50, "shifting start time").

8. Kusaba does not specifically disclose drag and drop operation. Kobayashi discloses drag and drop operation (col. 9, lines 29-35 and 51-60; col. 22, claim 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kusaba and Kobayashi because Kobayashi's graphical user interface for supporting drag and drop operation would allow the user to move selected contents to a desired sub area in the contents display area (Kobayashi, col. 9, lines 51-60).

9. Kusaba does not specifically disclose calculating a bandwidth. Schneider discloses calculating a bandwidth (33, fig. 1, "measure"; page 2, 0015-0017, "means for monitoring network bandwidth availability"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kusaba and Schneider because Schneider's calculating bandwidth would allow the system to test whether that bandwidth availability matches that capability which has been assumed for any given transfer method (Schneider, page 2, 0015).

10. Kusaba does not specifically disclose selecting for a method from among two delivery methods for delivering the content. Schneider discloses selecting for a method from among two delivery methods for delivering the content (305, fig. 3; page 1, 0008, "different transmission methods"...to choose and request a transmission method"; page 2, 0016, "optimal transmission method can be chosen"; page 3, 0025, "chooses a transmission method 305"). It would have been obvious to one of ordinary skill in the art of the invention was made to combine the teachings of Kusaba and Schneider because Schneider's selecting a transmission method would allow the user to interact with the performance evaluation information to choose the transmission method to assist the system in automatically choosing a transmission method (Schneider, page 2, 0019).

11. As to claim 3, it is rejected for the same reasons set forth in claim 2 above. In addition, Kusaba discloses transmitting means for transmitting the content using the assigned channel and transmission time (CATV transmitting apparatus 118, fig. 7; satellite transmitting apparatus 112, fig. 2; col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

12. As to claim 6, Kusaba discloses converting means for converting the format of each content corresponding to a reserved delivery resource (col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

Art Unit: 2154

13. As to claim 7, Kusaba discloses wherein a transmission resource is reserved for each content, the transmission resource being composed of a limited transmission band and transmission time, and wherein each content is transmitted corresponding to the reserved transmission resource information (col. 4, line 57 – col. 5, line 22; figs. 4D & 4D).

14. As to claim 8, it is rejected for the same reasons set forth in claim 2 above. In addition, Kusaba discloses a plurality of transmission paths (satellite, cable and internet; col. 8, line 58 – col. 9, line 13).

15. As to claim 10, Kusaba discloses wherein a reservation state can be browsed from one or more distributed environments (figs. 2 & 74 col. 4, lines 7-56).

16. As for claim 11, Kusaba discloses wherein a delivery resource can be reserved from one or more distributed environments (col. 4, line 57 - col. 5, line 224 Figs. 4C & 4D).

Conclusion

17. Applicant's arguments with respect to claims 1-3, 6-8 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.

18. The prior art made of record and not relied upon is considered pertinent to

Art Unit: 2154

applicant's disclosure:

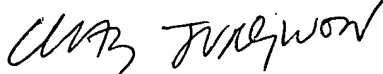
Barker et al. US 2001/0023429, Levitan, patent 6,698,023 disclose a method and system for dynamically controlling the rate and time of delivery of the data and dynamically controlling the bandwidth of the channel that delivers the data to client personal computers.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is 571-272-3960. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 28, 2006


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